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DCI/IC-75-3986

2 December 1975

MEMORANDUM FOR: Members of the Action Plan Task Group
SUBJECT : DCI Position Re 'Potential Legislation'

1. Reference is the scoring accomplished by the Task Group at our last meeting on the "Potential Legislation" table included in the "Legislative Project of Interest to

25X1 [redacted]

2. The DCI returned his comments on 29 November and two copies of the book were provided to the White House on 29 November, followed by six more on 1 December.

3. Copies of the revised book are being provided today to members of the Task Group involved in the project.

4. Tab A, "Areas of Potential Legislation Relating to the Intelligence Community" was revised to reflect DCI comments and his desire that "protection of intelligence sources and methods" be made a more prominent part of the paper. The ~~strikeout on the~~ last page (Item VI 6) was made at request of [redacted]

5. The "DCI position" scorings in Tab B, "Potential Legislation" were changed by Mr. Colby as follows in the final book:

Under Organizations and Functions

Item B4: "Require both offices to be filled by civilians"--changed from "no position" to "Against".

Item C1f: "Criminal penalty for violating proscriptions on internal security functions"--changed from "against" to "no position".

Item C3c: "Require CIA to share all intelligence and prepare special reports on foreign situations with and at the request of specified committees"--deleted "all" and changed position from "against" to "favor".

[redacted]

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Item C3i: "Keep oversight committees 'fully and currently informed' on all CIA activities"--changed "against" to "favor".

Under Fiscal Controls

Item I: "GAO review of expenditures"--changed all three entries from "against" to "no position."

6. Tab C: Original draft was expanded by adding Items H, I, J and K, and moving the former I and H to become L and M.

25X1 7. In Tab E, para 12, the strikeout was made at the request of

8. Tabs I, J and K were added at the request of the DCI.

Major General, USAF (Ret.)
Chief, Coordination Staff, ICS

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VII. What should be the DCI's responsibility for providing substantive intelligence* to the Congress?

In the years since World War II, intelligence has become an essential element of the national policy-making process. Congress as well as the Executive has come to realize that it needs intelligence if it is to do its job properly, and there has been a steadily increasing volume of Congressional requests for intelligence information.

The President, however, is given primary responsibility under the Constitution for the conduct of foreign relations and has an interest in protecting the confidentiality of military and diplomatic secrets which, if revealed, could undermine his foreign policy. Moreover, he has an interest in protecting the process by which Executive decisions on foreign relations and other matters are formulated.

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The overall position and authority of the DCI depend on his being a member of the President's national security team, along with the senior officers of State and Defense. He must take part in the deliberations of the NSC and its subcommittees. He must have, and be seen to have, the confidence of the President. But if his colleagues in the Executive come to see him as having mixed loyalties, in effect "a spy for Congress," he will quickly be disinvited or bypassed and his usefulness to the Executive will be ended.

We therefore must balance the interest of the Executive in not inhibiting the free flow of information from subordinates against the interest of Congress in obtaining intelligence in support of its foreign relations responsibilities.

The traditional position of the DCI was that he would be responsive within limits to Congressional requests but had no positive responsibility to volunteer information except to

* This refers to positive foreign intelligence, not to operational or budgetary matters.

the Oversight Subcommittees. This approach worked reasonably well. It was able to accommodate increasing Congressional needs while avoiding in all but a few instances putting the DCI cross-ways with the Executive.

It is my belief that times have changed. We should be establishing the principle that an American intelligence system must serve the entire nation, and specifically both Executive and Legislative Branches.

In my view, one of the best ways to do this is to produce an intelligence periodical publication expressly designed to meet Congressional interests, prepared under the supervision of a staff whose members have this and other information services to the Congress as their major responsibility. This publication can be supplemented by briefings for members of the Congress to meet their particular concerns.

I cannot pretend that this approach is free from problems. For example, although the DCI's right to maintain necessary secrecy for intelligence information and operations is very much a current issue, I must assume that intelligence provided to Congress will be properly safeguarded. It is obvious that the more intelligence is provided and the more individuals it is provided to, the greater the danger of compromise. The institution of an agreed system for the handling, protection and declassification of intelligence material in the Congress could materially reduce this problem.

Again, the provision of intelligence briefings to Congress on request makes relatively modest demands on the Agency's analytical resources, and the provision of finished intelligence reports prepared for other purposes makes virtually none. [U]nder present budgetary constraints, however, there are no resources available to meet Congressional requests for original work. [] If we accept ~~an obligation to meet~~ Congressional requests that require more than drawing on the bank of completed research, we must weigh this against the degradation in service to the Executive that this would cause. I feel, too, that any policy on intelligence support to Congress must apply to all agencies of the Intelligence Community, not just to CIA.

In conclusion, I believe that the DCI and the Congress should be able to work together in ways that:

- Maintain the principle that the primary responsibility of the DCI is to the Executive.

- Involve acceptance by the Congress of the principle that some intelligence is in fact privileged, and assure development of an agreed system under which the Congress will handle and protect the intelligence information that is made available.

- In general, minimize the number of people to whom sensitive intelligence is exposed.

- At the same time, meet as fully as we humanly can the legitimate intelligence needs of the Congress in its Constitutional role.

I do not believe that these arrangements should be a matter for legislation. Any legislation could force a constitutional struggle, and would also, to the detriment of the interests of both the Executive and the Congress, tend to freeze a relationship that must be as flexible and evolutionary as is our American political system.

28 November 1975

HOW BEST TO PRODUCE ESTIMATES

1. There has been some debate over the relative merits of producing National Intelligence Estimates through the present National Intelligence Officer (NIO) system or the Board of National Estimates (BNE) system formerly used.

2. Some of this debate has been simplistic, since the functions of the NIOs and those carried out by the BNE overlap only in part. The NIOs are responsible for production of National Intelligence Estimates, but they do many other things as well.

3. I confess to a strong preference for the present system, for several reasons:

a. As DCI, I have been convinced that there must be a close, dynamic relationship between the substance of the intelligence effort and the management of it. This becomes all the more necessary in an era of resource austerity and increasingly complex intelligence requirements. Unless we mesh substance and management closely -- so that substance drives management and management effectively supports substance -- we will spend too much money for too few results or results

of the wrong kind. In a variety of ways, the NIOs have proven their usefulness in fostering this effort.

b. I feel a need for broad-gauged, substantive specialists to advise or represent me in directing the production effort and especially the collection effort. This requires a functional or regional expertise which generalists do not have, and which the NIOs have supplied. A prime example is their role in administering the annual Key Intelligence Questions program, which is central to organizing both collection and production efforts each year.

c. I also consider that the NIOs have proven their usefulness in energizing the Intelligence Community, in providing a lateral extension of the DCI's authority and a flexible, responsive two-way channel of communication between the DCI and the corps of substantive experts in the CIA directorates and the other agencies of the Community. I further believe the NIOs have improved communications and cooperation, not only within the Intelligence Community, but, certainly no less important, between the Community and our policy-making consumers. I believe a Board is more apt to generate competitive efforts or end runs.

d. Finally, I believe that the NIOs have proven effective in focusing intelligence estimates sharply on questions of direct and timely policy relevance and in defining variations in judgments within the Community. Our principal consumers are especially interested in smoking out differences of view between experts or agencies, and having these laid out with cogent explanations as to why. I believe that a Board is more inclined to reject or compromise such differences.

4. The NIO system is a little over two years old, and still evolving. In the light of experience, I believe that we need to strengthen it in certain respects. We have encountered some difficulties in getting quality estimates promptly prepared especially when problems cut across geographical specialties, when agencies other than CIA have been asked to prepare drafts, or when NIOs levy work on production offices already heavily engaged in high priority work. The press of daily and weekly duties on the NIOs may not always give them the sustained freedom from pressure needed for the most thoughtful, long-term work.

5. But I believe the system can easily enough be adapted to provide these improvements. It might, for example, be sensible to provide a small group of expert drafters or

editors to assist the line analysts who are asked to prepare draft estimates. It might be well to add two or three NIOs with responsibilities cutting across geographic or functional lines who are free enough from other responsibilities to think primarily in long-range terms. And we might use consultants even more than we have so far.

6. I consider that incremental improvements to the present system, along these lines, would meet the real needs while preserving a system that has clearly proven itself of great use to me as DCI.

"Sensitive Issues and Allegations"
No. 10

Intelligence and the Predictability
of Major International Events

National intelligence is far more than the prediction of specific events. As intelligence has evolved in the years since World War II, it has become an integral contribution to the process by which national policy is shaped in today's complicated, interdependent, and dangerous world.

In this context, I believe that our responsibility in the area of "prediction" is best defined as the prevention of surprise. In fact, for intelligence to make its primary goal simply the prediction of specific events would in fact be a disservice to the policy officer. We would often be wrong, and almost never exactly right. For we would be claiming for intelligence a degree of precision in defining human intentions and in choosing among contingencies that is not within the power of any human individual or group that we know.

But we should be able to prevent the policy officer's being surprised by any event of major importance. If he is surprised, we have failed, either because our judgments were faulty or because we did not adequately communicate the degree of our concern. We succeeded on both counts regarding the Middle East War in 1967; we missed on both counts in the Middle East War in 1973.

What can the policy officer reasonably expect of us? He can expect that we will put him in the context of events as they occur; that we will help him understand the dynamics of a situation; that we will lay out a range of possible outcomes, especially those that damage US interests or present an opportunity to the US; that we will seek by further collection and analysis to narrow this range, to reduce many possibilities to a few, and to rank them; and that we will warn him at the earliest possible time of any increase in the odds for a serious crisis. But we must not cry wolf too often. Sooner or later one is sure to be right that way, but the policy officer will have long since ceased to listen.

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What should be your substantive position concerning intelligence oversight committees?

In principle, it is up to the Congress to put its house in order, but in so doing, it should recognize that executive as well as legislative prerogatives are involved.

It does not take six committees of Congress to exercise oversight of CIA. The proliferation of sensitive information must stop and the number of committees involved should be reduced.

The nation should not be required to rely exclusively upon the wisdom and restraint of individual members to protect sensitive intelligence information provided to the Congress. The rules of Congress should make it clear that access to especially sensitive matters will be restricted to the agreed upon committee structure and should provide explicit sanctions for violation of the rules.

(See response to previous question for additional points.)